

On March 1, 2011, a writ of execution was issued pursuant to the Federal Debt Collection Procedure, 28 U.S.C. § 3001 *et seq.*, in order to satisfy a judgment against Gibson. *See* Docs. 611, 612. The writ of execution indicated that there was a current balance of \$20,727,846.05 on the judgment, and sought to levy specified assets owned by Gibson. *See id.* The Clerk’s notice of post-judgment execution (Doc. 611) gave Gibson an opportunity to request a hearing to

determine the extent (if any) any federal exemption applied to the assets sought to be levied by the government. Gibson filed a request for a hearing on April 20, 2011. Doc. 613. Gibson requested that the hearing to take place in the federal District Court of Colorado and any notice of such hearing be sent to Wesley W. Hoyt, a Colorado attorney. *See id.* On July 11, 2011, the Court ordered Gibson to file a verified statement regarding any claimed exemptions and notified Gibson and Hoyt that the exemption hearing, if any, would occur in this District. *See* Doc. 616.

### **DISCUSSION**

“[A] debtor, by application to the court in which an action or proceeding ... is pending, may request a hearing on the applicability of any exemption claimed by the debtor.” 28 U.S.C. § 3014(b)(2). “The Court shall determine the extent (if any) to which the exemption applies.” *Id.* However, claimants are not entitled to a hearing as a matter of law. *See, e.g.,* Doc. 609. Rather the necessity of the hearing is left to the Court’s discretion. *See id.* In order to determine the extent (if any) to which an exemption applies, the Court has the option of ordering the debtor to “file a [verified] statement with regard to any claimed exemption.” 28 U.S.C. § 3014(b)(1). This option gives the Court an opportunity to examine the debtor’s claimed exemption(s) and possibly entertain dispositive motions regarding the same. *See* 28 U.S.C. § 3014.

On July 11, 2011, the Court ordered Gibson to file a verified statement pursuant to 28 U.S.C. § 3014(b) with regard to any claimed exemption within thirty (30) days.<sup>1</sup> *See* Doc. 616. As of the date of this Report and Recommendation, Gibson has failed to file any such statement with the Court. In the July 11, 2011 order, the Court warned Gibson that the failure to follow the directives of that order could be dispositive of his request for a hearing. *See* Doc. 616. Because

---

<sup>1</sup> Due to the fact that a Colorado attorney signed Gibson’s request for a hearing and any such hearing would occur in this District, the Court also ordered that attorney to register in this District and enter an appearance. As of the date of this Report and Recommendation, the attorney has not entered an appearance.

Gibson has disregarded the Court's order regarding possible exemptions to the writ of execution, it is **RECOMMENDED** that Gibson's request for a hearing (Doc. 613) be **DENIED**.

**SO RECOMMENDED.**

**DATED: August 19, 2011.**

**/s/ Philip M. Frazier**  
**PHILIP M. FRAZIER**  
**UNITED STATES MAGISTRATE JUDGE**